

AMENDED IN ASSEMBLY MAY 17, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1446

Introduced by Assembly Member Karnette

February 22, 2005

An act to amend Section 2912 and 5028 of the Penal Code, relating to foreign prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1446, as amended, Karnette. Foreign prisoners.

Existing law requires foreign-born inmates subject to the jurisdiction of the Department of Corrections to be informed that they may be eligible to serve their term of imprisonment in their country of citizenship. Existing law specifies other notification requirements in this regard, and similar notification to the consul of the inmate's nation of citizenship.

This bill would instead require that the department make that notification to inmates who are nationals of countries ~~with which the United States has a prisoner transfer treaty~~. ~~The bill would also provide that as long as the inmate is in a facility operated by the Department of Corrections, the inmate would have access to his or her consular officials, and the officials would have access to the inmate, as specified.~~ *The bill would require the Director of Corrections to inform the inmate that they may contact their consulate and would be required to ensure that if notification is requested, that the inmate's nearest consulate or embassy is notified without delay, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2912 of the Penal Code is amended to read:

2912. (a) Under its Foreign Prisoner Transfer Program, the Board of Prison Terms shall devise a method of notifying each inmate in a prison or reception center operated by the Department of Corrections who is a national of a country with which the United States has a prisoner transfer treaty that he or she may be eligible to serve his or her term of imprisonment in his or her country of nationality and of the substance of the relevant treaty.

(b) (1) The Board of Prison Terms shall actively encourage each eligible foreign national inmate to apply for return to his or her country of nationality as provided in prisoner transfer treaties and shall provide quarterly reports outlining its efforts under this section to the Chairperson of the Joint Legislative Budget Committee and the chairperson of each fiscal committee of the Legislature.

(2) The Board of Prison Terms shall adopt the model program developed by the State of Texas for encouraging participation in the federal prisoner transfer program where appropriate.

SEC. 2. Section 5028 of the Penal Code is amended to read:

5028. (a) ~~Upon the entry of any person who is a national of a country with which the United States is a party to an international agreement relating to a prisoner transfer into a facility operated by the Department of Corrections, the Director of Corrections shall inform the person that he or she may be eligible to be transferred to serve the remainder of his or her prison term in his or her country of nationality and shall inform the person of the substance of the applicable prisoner transfer treaty so that he or she may request notification to the inmate's consulate of the inmate's detention and shall ensure that, if the inmate requests that notification, that the inmate's nearest consulate or embassy is in fact notified without delay of his or her detention. For so long as the inmate remains in a facility operated by the Department of Corrections, the director shall permit the inmate to communicate with his or her consular officials and shall permit consular official to have access to the inmate consistent with applicable treaties. a foreign national into a facility operated by~~

1 *the Department of Corrections, the Director of Corrections shall*
2 *inform the person that he or she may apply to be transferred to*
3 *serve the remainder of his or her prison term in his or her*
4 *country of nationality. The director shall inform the person the*
5 *he or she may contact his or her consulate and shall ensure that*
6 *if this action is requested by the inmate, that the department shall*
7 *facilitate contact with the inmate's nearest consulate or embassy*
8 *without delay.*

9 (b) Upon the request of a foreign consulate representing a
10 country with which the United States is a party to an international
11 agreement requiring consular notification of every arrest
12 involving a national of that country, that is, a "mandatory
13 notification country," the Department of Corrections shall
14 provide the foreign consulate with a list of the names and
15 locations of all inmates in its custody that have identified
16 themselves as nationals of the country making the request.

17 (c) The Department of Corrections shall implement and
18 maintain procedures to process applications for the transfer of
19 prisoners to their countries of nationality under subdivision (a)
20 and shall forward all applications to the Governor or his or her
21 designee for appropriate action.